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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,543	09/12/2003	David C. Fischer		6417

7590 05/17/2005
Marvin N. Gordon
277 West End Avenue
New York, NY 10023

EXAMINER

COURSON, TANIA C

ART UNIT PAPER NUMBER

2859

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,543

Applicant(s)

FISCHER, DAVID C. 

Examiner

Tania C. Courson

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 6, 7, 14 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-13, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I (species shown in Fig. 1), during a telephone conversation on February 10, 2005 is acknowledged.

The requirement is still deemed proper and is therefore made FINAL.

2. Accordingly, claims 6-7 and 14-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group, there being no allowable generic or linking claim.

Thus, claims 1-5, 8-13 and 16-17 will be further examined in this action.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 4-5, 9-10, 12-13 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Brenna et al (US 5,673,491).

Brenna et al. disclose in Figures 1-7, an indicating device and associated method comprising:

With respect to claims 1-2, 4-5, 9-10,12-13:

- a) a member (84) movable along a path corresponding to the position of the object (Fig. 1a), a plurality of spaced electrical contacts insulated from one another and positioned along said path (120), data-storing means operatively connected to said plurality of contacts (Fig. 6a), said data-storing means including a corresponding plurality memory locations each of which stores a preset, different position measurement data and each of which is respectively operatively connected to one of said plurality of contacts (Fig. 6a), each of said position measurement data stored respectively in said plurality of memory locations being uniquely respectively associated with one of said plurality of contacts along said path to which said memory location is operatively respectively connected (Fig. 6a), and output means operatively connected to said data storing means (70), said movable member being effective when in engagement with said one of said contacts to cause only the data stored in the one of said memory locations then operatively connected to said one of said contacts to be applied to said output means (Fig. 6a);
- b) in which said output means is a display device (70);
- c) in which said contacts are arranged in an arcuate path (Fig. 4);
- d) in which said movable member is connected at one of its ends to a voltage source (Fig. 6b) and its other free end is movable along said arcuate path to make electrical contact with one of said contacts (Fig. 4)

- e) further comprising a voltage source (Fig. 6b), said member being effective when in electrical engagement with one of said contacts to place an associated one of said memory locations in a circuit arrangement with said voltage source (Fig. 6a).

With respect to method steps of claim 17:

- a) arranging a plurality of fixed, spaced and insulated electrical contacts along a path (120), moving an electrically conductive member (84) along said path by an amount representative of the relative movement of the object (Fig. 4), thereby causing said movable member to make electrical contact with one of said contacts (Fig. 4), storing respectively a corresponding plurality of different preset position data in a corresponding plurality of data-storing locations in a memory respectively operatively connected to said plurality of contacts (Fig. 6a), the position data stored in said plurality of data-storing locations being respectively uniquely associated with one of said plurality of contacts (Fig. 6a) and causing the position data stored in the one of said data-storing locations associated with and electrically operatively connected to the said one of said plurality of contacts then contacted by said movable member to be applied to an output device (Fig. 6a).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 8, 11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenna et al. in view of Hsu et al. (US 6,243,660 B1).

Brenna et al. disclose an indicating device, as stated above in paragraph 4.

Brenna et al. do not disclose an output means being a CPU and a data-storing means being a ROM.

Hsu et al. teach a digital sensing device that consists of an output means being a CPU (43) and a data-storing means being a ROM (49). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the indicating device of Brenna et al., so as to include a CPU and ROM, as taught by Hsu et al., so as to provide an increase in accuracy during use of the device.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (571) 272-2239. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (571) 272-2245.

The fax number for this Organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DIEGO F.F. GUTIERREZ
SUPERVISORY PATENT EXAMINER
GROUP ART UNIT 2859

TCC
May 13, 2005

CHRISTOPHER W. FULTON
PRIMARY EXAMINER